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PREVENTION OF DISCRIMINATION AGAINST AND THE PROTECTION OF MINORITIES

The human rights problems and protections of the Roma

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pursuant to Sub-Commission decision 1999/109

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Introduction

1. At its fifty-first session, the Sub-Commission on the Promotion and Protection of Human Rights decided to entrust me with the task of preparing a working paper, without financial implications, on the human rights problems and protections of the Roma in order to enable the Sub-Commission to take a decision on the feasibility of a study on the subject (decision 1999/109).

2. Mr. David Weissbrodt had earlier, during that same session, made a statement on the situation of the Roma, adding that there had been no systematic United Nations effort to understand the situation of the Roma minority within Europe and that there had not been a thorough study addressing the ways in which people of Roma ethnicity had suffered discrimination and of ways to improve their situation. That statement could not be more factually correct since the first reference to the Roma by a United Nations organ is a fleeting one. In resolution 6 (XXX) of 31 August 1977, the Sub-Commission, "noting that the report of the Special Rapporteur on the rights of persons belonging to ethnic, religious and linguistic minorities, Mr. Francesco Capotorti, found (E/CN.4/Sub.2/384/Add.6, annex III) that there are gypsies (Roma) within the borders of many countries ... appeal[ed] to those countries which have gypsies (Roma) within their borders to accord to these people, if they have not yet done so, all the rights that are enjoyed by the rest of the population".

3. On 23 November 1984, the General Assembly adopted resolution 39/16 on the Second Decade to Combat Racism and Racial Discrimination in which it invited the "concerned organs of the United Nations" including the Sub-Commission, "to continue exercising vigilance in identifying actual or emergent situations of racism or racial discrimination, to draw attention to them where discovered and to suggest appropriate remedial measures". Specific reference was made of apartheid in South Africa and Namibia in the resolution.

4. Various organs and bodies of the United Nations have been continuously involved with combating racism and racial discrimination. But there was no reference to the Roma until another resolution of the Sub-Commission in 1991, resolution 1991/21, expressed its awareness that "in many countries, various obstacles exist to the full realization by persons belonging to the Roma community of their civil, political, economic, social and cultural rights and that such obstacles constitute discrimination directed specifically against that community, rendering it particularly vulnerable". In its resolution 1992/65, entitled "Protection of Roma (gypsies)", the Commission urged the Special Rapporteur on minorities of the Sub-Commission, in carrying out his work, to accord special attention to and to provide information on the specific conditions in which the Roma communities live. But the study of the problems of the Roma was to be peripheral to the broader task of preparing a study on possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities; the time was probably not yet ripe.

5. In March 1993 the Office of the United Nations High Commissioner for Refugees (UNHCR) carried out a survey of the Roma in Central and Eastern Europe (CEE). This followed the attack on a hostel housing Roma asylum-seekers in Rostock, Germany, in August 1992. The writer, at paragraph 3 of the Preface, found that:

> "The Roma, perhaps more than any other identifiable transnational group of people, are subject to three main aspects of contemporary Central and Eastern European life that are giving rise to what may become one of the greatest destabilizing factors in Europe since the 1920s and 1930s. These are: increasing economic deprivation, increasing social instability, and the surfacing of long-suppressed ethnic hostilities, now fuelled by the 'skinhead' syndrome that has made its way from Western Europe."[1]

The survey covered the background and the contemporary condition of the Roma in five CEE countries, and Roma asylum-seekers in Germany. Its purpose was mainly informative.

6. The Committee on the Elimination of Racial Discrimination (CERD) has been playing an important role in the protection of the human rights of the Roma. In March 1998, for example, it considered the initial and second periodic reports of the Government of the Czech Republic presented in one document (CERD/C/289/Add.1). It found multiple areas of concern and formulated a number of recommendations (see A/53/18, paras. 111-138). CERD has recently decided to hold a day of discussion on the issue of the Roma at its August session this year.

7. In September 1999, pursuant to Commission on Human Rights resolutions 1993/20 of 2 March 1993 and 1999/78 of 28 April 1999 (section III), the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (Special Rapporteur on racism) carried out a mission to Hungary, the Czech Republic and Romania. His mission was prompted by reports he had received of systematic discrimination (particularly in education, employment and housing) against the Roma citizens of these countries and frequent acts of violence against them by members of extreme-right organizations and the police. The report of his mission (E/CN.4/2000/16/Add.1) was submitted to the Commission at its fifty-sixth session this year.

8. The call for a working paper by the Sub-Commission on the specific issue of the human rights problems and protections of the Roma is therefore an appropriate and timely action in view of the flood of interest in the matter demonstrated recently by a number of United Nations bodies.

I. HISTORICAL BACKGROUND

9. The Roma originate from the north-west of India, whence they travelled several centuries ago. The largest population of Roma is at present to be found in the CEE. Statistics on the Roma are difficult to gather, and where these exist they are unreliable. Quite a few Roma still lead a nomadic lifestyle and there is reason to believe that some appreciable number of them, for a number of reasons, have declared themselves to the authorities as other than Roma.

10. To start with, their Indian origin had over the years been obscured by legends of Egyptian origin and when they reached Greece many centuries ago they were wrongly lumped together with the Atsinganos, meaning "untouched or untouchable", who were a sect of soothsayers and magicians from Asia Minor. (The word "gypsies" is a corrupted form for "Egyptian" and Tsigane derives from Atsinganos.) But the Roma are clearly of Indian origin, as confirmed by linguists who found in the Romani language unmistakable similarities with Sanskrit. There are many designations for the Roma, including Gypsy, Tsigane, Zigeuner, Gygan and Chicane.

11. Another reason for the unreliability of statistics on the Roma is the fact that some Roma may declare themselves as belonging to other communities within the society in which they live, out of prudent caution, since they know that Roma are not liked and are discriminated against. There is also the lingering memory of the Roma who were exterminated by the Nazis during the Second World War. The inaccuracy of statistics is further augmented by the way the census is carried out in some countries where individuals are asked to state in which community they would prefer to be classified. In other countries, it is not obligatory for individuals to declare their ethnic group. In the Czech Republic, for example, only 33,000 people declared themselves as Roma in the 1991 census. When the Special Rapporteur on racism inquired last September, the official estimates gave the number of Roma as ranging between 166,000 and 206,000. Unofficial sources would put the Roma population in the Czech Republic at between 300,000 and 400,000.

12. There is perhaps need to mention the existence of other groups leading a nomadic lifestyle but of indigenous European origin, i.e. the Tinkers in Ireland, the Quinquis in Spain and the Jenisch in Germany. There are also the Sinti, who are Roma by ethnicity but who have settled down in Germany and who barely speak Romani nowadays and have a diluted culture. There are also the equivalent of the Sinti in France, known as the Manouche. These groups are in between the Roma and the Gadjé, the appellation by which non-Roma are known. They would all form part of the group Roma, Gypsies and Travellers, of which the Roma would make up some 70 per cent.

13. It is difficult to ascertain the relative proportions of nomad and sedentary Roma. The situation varies from State to State. In Sweden, Denmark, Spain and Austria the Roma are virtually all sedentary. In the United Kingdom, France, Ireland and Belgium the situation is just the reverse and virtually all the Roma in those countries are nomadic. Taking Europe as a whole, the population of Roma living full time in mobile accommodation and regularly on the move is no higher than 20 per cent. Semi-nomads, either living full-time in mobile accommodation but travelling only part of the year, or living part of the year in fixed accommodation and travelling the other part, amount to another 20 per cent. Sedentary individuals who never travel, despite the fact that many of them live in semi-mobile accommodation, make up the remaining 60 per cent. In his book Roma, tsiganes, voyageurs (Roma, Gypsies, Travellers) Jean-Pierre Liégeois,[2] a well-known authority on Roma issues who is also the director of the Gypsy Research Centre, put the Roma population in 1994 in 38 listed European countries between 7 and 8.5 million. The figure has now increased to between 8 and 10 million.[3]

14. There is perhaps also a need to get some terminology right. "Rom" is the singular of "Roma", the plural form which will be adopted in this working paper. Rom and Roma refer to the persons. "Romani", on the other hand, refers to the language spoken by the Roma, a tongue originating in India.

15. The problems of the Roma are numerous and multifarious. The Roma are one of the rare migrant populations for whom time seems not to have meant progress with respect to their advancement in terms of social status, which has not changed over the years, not to say centuries. Scarcely anything has been achieved and today Roma across the whole of Europe are still

generally poor, uneducated, discriminated against in practically every sphere of activity. They are frequently subjected to persecution and are the victims of open acts of racism. Many of them live in constant fear of violence being perpetrated against them because they are Roma.

II. HUMAN RIGHTS PROBLEMS OF THE ROMA

16. In September 1993, at the meeting of the Committee of Senior Officials of the then Conference on Security and Cooperation in Europe (CSCE), the High Commissioner on National Minorities of that organization, Max van der Stoel, reported on "the extremely vulnerable position in the societies, economies and political systems of the region" of the Roma which has manifested itself in their widespread and acute poverty, unemployment, illiteracy, lack of formal education, substandard housing, and other problems. He noted that there was persistent anti-Roma prejudice and that Roma were frequently targeted as scapegoats for the ills of society at large, resulting in numerous attacks against Roma and their property.

17. In an address in September 1999 to the Supplementary Human Dimension Meeting on Roma and Sinti Issues in Vienna, Mr. van der Stoel, now High Commissioner on National Minorities of the Organization for Security and Cooperation in Europe (OSCE), mentioned the terrible plight of the Roma:

> "For too long the Roma issue has been swept under the carpet. But no one who lives in this part of the world can be unaware of the problems, or at least the symptoms. The problems include intolerance, mutual distrust, poor housing, exclusion, unemployment, education and systemic discrimination. In a classic downward spiral, each of these problems exacerbates the others. Sadly, the symptoms have become almost commonplace: racist attacks and segregation, Roma asylum-seekers, horrendous living conditions, extreme poverty, and disproportionately high rates of illiteracy and ill-health including infant mortality. Images of a mother and child begging in the streets, of families reduced to living on garbage dumps, or Roma houses being burnt down by angry mobs do not tell the whole story, but they stay with us because of their poignancy. Such images seem like they should be from another time or place. But they occur - here and now ... in modern Europe, in a Europe that prides itself on being a civilized continent based on common principles, particularly respect for human rights."

He found that "notwithstanding notable steps by a few institutions, conditions of Roma communities in Europe have, in many key respects, continued to deteriorate" and that "despite the seriousness of the problems now confronting Roma, neither the OSCE nor its participating States have devoted the attention or resources to this issue that are plainly warranted".

18. For the purposes of this working paper, there is no need to go into the many individual types of infringements of human rights which the High Commissioner on National Minorities has enumerated. Suffice it to say that the human rights problems of the Roma are not limited to the infringement of the rights of minorities, i.e. discrimination on the grounds of culture, language and race, but that, as a group, they are subjected to violations of all known human

rights. They basically face two types of problems, which overlap. The first concerns racism and violence and the second is of a socio-economic nature. The few specific problems which will be mentioned here are only for the purpose of illustrating the seriousness and complexity of the problems facing the Roma.

A. Racism and violence

19. There has been a marked resurgence of late of racist violence throughout Europe. One reason is the great compression in employment and job opportunities in CEE countries following the fall of communism and the adoption of a market economy. This has resulted in a marked competition for scarce jobs, especially those requiring no particular skills, which the majority of the Roma find themselves seeking. The mainstream population, which is in direct competition with the Roma, therefore finds it easy to single out the Roma as the perfect scapegoat for the morass in which they find themselves plunged.

20. The media has often played a harmful role by stereotyping Roma. They are often described in terms of negative characteristics, the worst of which is a supposed predisposition to commit crimes. Hate messages in the press are not uncommon.

21. The authorities which are supposed to offer protection, like the police and the judiciary, are often perceived as shying away from their responsibilities because they are prejudiced and do not take Roma complaints seriously.

22. The Roma are often barred from restaurants, swimming pools and discotheques and they are often the victims of violent racist acts by skinheads, a new phenomenon in the East and a bad influence from the West. For security reasons many of them have sought asylum in other countries. This has in turn led to reactions from certain receiving countries, including arbitrary imposition of visa requirements and sometimes even deportation in situations where the fate of the asylum-seekers in the country of origin was uncertain. In 1994 the Roma were persecuted by the Serbs during the hostilities in Bosnia. Last year, and even now, they suffer hostilities from the ethnic Albanians in Kosovo because some of them had allegedly sided with the ethnic Serbs prior to the intervention by the North Altantic Treaty Organization.

B. Socio-economic problems

23. The Roma suffer mass discrimination in their social and economic life. This is very strongly reflected in the latest and voluminous report of the OSCE, published in March this year.[4]

1. Housing

24. Most Roma still live in the most squalid and derelict housing estates with non-existing or extremely poor sanitary facilities. Often they live in Roma-only sectors, thereby bringing about an effective segregation or ghettoization from the mainstream population. The building of the notorious wall in the Czech town of Usti nad Labem is a single but vivid example of such ghettoization in all its shocking reality. Whilst it cannot be denied that the municipal authorities of that town might have had some genuine cause for concern or could have taken reasonable

action to eliminate the noise and visual pollution coming from the two blocks of flats which were a source of inconvenience to the non-Roma neighbourhood, the proposal to build a wall to separate and segregate the two communities was most disquieting since it amounted to an affront to human dignity and was a clear breach of the principle of equality of individuals before the law. The building of the wall therefore went beyond all common sense and it is reassuring that the Government of the Czech Republic took urgent measures to redress the situation by ordering the destruction of the wall shortly after it had been built.

2. Education

25. There are reports that in certain countries Roma children are systematically routed to "special schools" for the mentally disabled, thereby depriving them of their chance to progress at school and beyond. Some government agencies have claimed that certain Roma parents prefer to send their children to such schools because the latter have difficulty coping with the normal school curriculum. It is also said that Roma children are usually breastfed till they are 6 or 7 years old and thus have barely been exposed to mainstream influence, including language, when they start their schooling. Significantly, the ratio of Roma to non-Roma children attending special schools in the Czech Republic is 1:11. One thing is sure, however: it does a grave disservice to the community as a whole to channel Roma children as a matter of course to "special schools". This is a way of stunting them intellectually so that they are deprived of an equal and fair chance of getting a proper education and of ensuring that they remain second-class citizens for ever.

26. A report[5] published in 1989 under the aegis of the European Communities stated that only 30-40 per cent of Roma children attended school with a degree of regularity. Over half received no schooling at all. Very few progressed to secondary level and scholastic achievement with regard to the attainment of functional literacy was generally poor and was not in keeping with the amount of time spent in school. The recent OSCE report gives the same bleak picture of the low levels of school attendance by Roma children and high levels of illiteracy. Pertinent statistics on their schooling in a number of countries are contained in the report.[6]

3. Employment

27. One of the most flagrant types of discrimination against the Roma is their massive denial of employment security. Quite apart from the competition for scarce jobs in CEE countries, the Roma are practically absent from the service sector. The Special Rapporteur on racism found that in Hungary, for example, "there are almost no Roma taxi-drivers, shop assistants, kitchen workers in pubs and restaurants, or doormen at banks or hotels. Roma are employed as garbage-collectors, street-sweepers or factory workers. The vast majority, however, are unemployed. The unemployment rate among Roma is estimated at 60 per cent; outside relatively prosperous Budapest, areas with nearly 100 per cent unemployment among Roma are not uncommon, according to several sources" (E/CN.4/2000/16/Add.1, para. 114). Unemployment figures for the Roma in other countries of the region follow the same pattern. In its 1997 report, the Council of Nationalities in the Czech Republic stated that 70 per cent of Roma were unemployed, with figures as high as 90 per cent in some areas. The general unemployment rate in that country, however, is only 5 per cent (ibid., para. 14).

4. Complaints

28. One common complaint of the Roma in all CEE countries is that no consideration is given to their plight and that when Government thinks of doing something to promote their interests they are not asked to give their views or to be involved. Measures taken by Government, although done in good faith, often present themselves as impositions or faits accomplis.

29. Another complaint is that they have little or no say at the political level since they are usually unrepresented or under-represented at the local, central or regional levels of Government. In the former Yugoslav Republic of Macedonia, for example, the only Roma elected to Parliament comes from a constituency with a predominantly Roma population. Ways and means of ensuring adequate representation of the Roma at all levels of Government must obviously be looked into.

5. The gender issue

30. It is a well-known fact that whenever the human rights of a group are trampled upon, the children and women bear the brunt of such abuse. They become, in fact, the victims of double discrimination. There have unfortunately been reports from Roma NGOs of sexual violence and also of forced sterilization suffered by Roma women. Moreover, there is information that young Roma women are lured or forced into prostitution, ending up as subjects of international trafficking. Particular attention should therefore be paid to their situation and national strategies in favour of the Roma should include a specific action plan for women.

III. HUMAN RIGHTS PROTECTION OF THE ROMA

31. The overall objective we are seeking to establish is the protection of the human rights of the Roma so that they can enjoy all human rights and in particular those set out in the international and regional instruments for the protection of the rights of the minorities which are encapsulated in the text of article 27 of the International Covenant on Civil and Political Rights. To achieve this objective several things must emanate from different quarters. The key element in the effective improvement and protection of the human rights of the Roma is the establishment of trust among all the parties, viz. the Roma, the mainstream communities and Government. We are here proposing a solution in which all parties will profit.

32. Both Government and the mainstream communities are in a dominant position vis-à-vis the Roma who are but a minority component in the various societies they may find themselves living in. It is incumbent therefore upon those who have the edge and the power to bring about social and economic reforms to cater for the needs of the Roma and to reinforce their dignity. The following should be borne in mind:

(a) A move in that direction can be achieved by establishing and maintaining strong lines of communication between all parties through newly established independent agencies dedicated to the promotion and protection of the human rights of the Roma and consisting of persons of good will and repute from all ethnic backgrounds, including Roma;

(b) Issues relating to the Roma ought to be discussed with the Roma and their sensitivities taken into account when decisions are taken that concern them. Discussions should be proactive and the Roma should not be made to feel, nor should the dominant parties behave, as if one side is granting privileges and that it is a "take it or leave it" situation. There is a need to profess and to practise mutual respect.

33. It is important to check hate speech and racial discrimination in all its forms from mainstream populations and particularly from chauvinistic politicians. Specifically designed provisions in municipal laws to combat racism, including provisions in the administrative, criminal and civil laws, which have sufficiently sharp teeth have become a real necessity. It is only when the Administration has the necessary power to deregulate or to cancel licences of errant businessmen who blatantly practise discrimination, when State prosecutors secure convictions against offenders guilty of racially motivated violence, or when victims obtain compensation for the prejudice suffered as a result of discriminatory acts that the message will seep through that it does not pay to be a racist. It is essential that an honest and unbiased police force as well as a strong and independent judiciary be set up. They need to be trained and well informed so that they can act fairly and impartially in dealing with complaints or hearing court cases in which the Roma are involved.

34. It is the role of education to bring about equal opportunities for all individuals regardless of their ethnicity, culture or religion. More importantly, education opens up one's mind and one's horizons by stimulating interest in cultural pluralism. One can hardly speak of monoculturalism in any specific country nowadays since no single country in the world can remain immune from the influence of a second or more cultures. Multiculturalism has become the norm and those Powers which, at a certain time in their history, felt so effortlessly superior vis-à-vis the others that they took as their credo that only their culture was worth disseminating across the world, have fortunately come to realize that there is often merit, at least occasionally, in humility. Nowadays, allowance is made for minority ethnic groups to practise their own culture. Multiculturalism is a manifestation of tolerance, which is good but which may not be enough.

35. The new paradigm is perhaps to be found in "interculturalism", which allows an individual to be open and receptive to the simultaneous influence of several cultures, although these may be poles apart. Interculturalism goes a step further than tolerance. It implies openness and receptiveness to cultures other than one's own, whether one belongs to a minority or to the majority. It enhances and gives extra points of reference to the individual whose identity is enriched by acquiring multiple identities so that he/she is reasonably comfortable with ethnically different neighbours and sufficiently understands them. An individual who lives in a multicultural society and is open to the practice of interculturalism will have less difficulty in being socially integrated. Interculturalism is the precept for becoming a real citizen of the world.

36. J.S. Gundara of the University of London, in his paper "Multiculturalism, Deep Democracy and Citizen Education",[7] gives some positive examples of that concept at work in Britain. Writing about certain Indians who have settled in Britain, he says:

> "One Das ... describes himself as a 'Hindi British Asian, English, Bengali European'. One Pandit G ... describes himself as 'a half-Irish, Asian, Scot' (The Times, 2 July 1999)."

37. School is the ideal medium to promote interculturalism and empowerment must necessarily come through education. That power lies in the barrel of a gun is long-gone rhetoric which has no relevance to the ideals of government based on democracy and human rights. Power is based on knowledge and there cannot be knowledge without education. Nowadays, satellite TV keeps the Roma sharp and well informed. Their expectations are higher and they are no longer willing to play an uncomplaining role in society which very much resembles serfdom.

38. Establishing trust is not a one-way street and there is grave need for reciprocity from the Roma. There is urgent need for the Roma to be perceived as paying particular attention to and showing respect for the laws and customs of the country they may find themselves living in, albeit in transit, when those laws and practices are in conformity with the provisions and principles of international human rights law. Criticism must be fair. For example, non-recognition of a "marriage" which does not comply with the requirements of a civil marriage, viz. the need for publication and registration, is not aimed at barring a Roma "widow" who has celebrated a purely "religious" marriage from lawfully obtaining pension benefits. Non-recognition of a purely religious marriage can be a very sensitive issue because it involves a clash between the obligation of the State to ensure that its domestic law complies with articles 1 and 3 of the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages and the feelings of people who basically believe in the sanctity of a religious marriage. A simple solution would be to introduce legislation empowering "authorized persons" (Roma religious leaders and priests) to perform religious marriages having civil effect. Such "authorized persons" will be bound to ensure that every marriage they perform is in compliance with the civil law and that the particulars of the marriage are transmitted to those responsible for the civil register.

39. Race relations are often affected by negative stereotyping, and relations between "mainstream" communities and Roma are no exception, where there is a strong perception that Roma leading an itinerant lifestyle do not leave temporary living sites in a tidy or clean state. There is also urgent need for the Roma who have adopted a sedentary lifestyle to integrate themselves (as opposed to assimilate) in their country of adoption. This will only reinforce trust.

IV. RECOURSE TO REGIONAL AND INTERNATIONAL ORGANIZATIONS FOR THE PROTECTION OF HUMAN RIGHTS

40. Protective measures and machinery exist in various international and regional instruments. In the present context of world affairs those instruments may contain the best practical measures for the promotion and protection of human rights. First, conventions are instruments of consensus and whilst the benchmark must be set high, it must not be placed beyond the practical bounds acceptable to States parties. Any recommendation for the improvement of the human rights protections usually bears in mind this practical constraint and is normally worked out around any existing legal framework. Second, the availability of these protective measures and machinery at a level which is beyond national confines is perceived as offering the necessary guarantees of objectivity and independence. This is an important safety

valve, especially when local protective measures like the police and the judiciary are often considered, rightly or wrongly, as working hand in glove with the majority to stamp down the minorities. Access to justice may also be more theoretical than real since the facilities available to the litigants can be highly disproportionate. Although the independence of the judiciary is often easily presumed, that presumption is not an irrefutable one.

41. In extreme situations where there is much bitterness between two communities it may be utopic and unrealistic to expect that a judge belonging to one community would not be infected by prejudice when he sits in judgement against a member of the other community. In an interview he gave recently,[8] Dr. Bernard Kouchner, who heads the United Nations mission in Kosovo, was asked whether it was possible to have fair trials given the ethnic animosity. His candid answer was that the judicial system was not functioning because it did not have sufficient independent judges and prosecutors. Talking about the divided city of Mitrovica, he said that he had postponed the trial of alleged Serb war criminals there because the situation was too volatile. This diagnosis by Dr. Kouchner highlights the importance of having sound, independent and respected institutions to solve disputes.

42. The Roma have had very little recourse so far to regional and international organizations for the protection of their human rights although these organizations are a guarantee of independence and objectivity. Most of the Roma may not know the existing avenues or they may not have the material resources or legal contacts and back-up necessary to bring such cases before the available forums. This is a pity because social change litigation, including race discrimination litigation, is a sure way of exerting pressure on Governments and often act as a catalyst in bringing about a cascade of positive remedial actions.

43. There is therefore an urgent need:

(a) To undertake an information and sensitization campaign to inform the Roma of the remedies available to them beyond the boundaries of the States in which they live;

(b) To carry out a study on the effectiveness of the protective measures obtainable before regional and international organs and the means that must be taken to ensure an enhanced protection network. The common requirement that all existing domestic remedies must be exhausted before citing a State party before an international forum may result in injustice where no time-frame is set for hearing complaints of violation of human rights;

(c) To take advantage of the new willingness on the part of certain countries to solve the Roma's problems. As at June 1999, of the 41 countries of the Council of Europe, 27 had ratified the Framework Convention for the Protections of National Minorities which is a very important regional instrument for the protection of minorities. That document came into force on 1 February 1998. One of the reasons behind this desire to improve human rights protections for minorities is probably linked with the negotiations for membership in the European Union which certain countries are at present undertaking, and the need to raise human rights standards to bring them into line with the international norms.

44. The machinery available under various regional and international instruments for the protection of human rights are good tools for checking violations of the human rights of minorities and it is essential that maximal use be made of and benefits drawn from them.

V. FEASIBILITY STUDY

45. Considering the magnitude and complexity of Roma human rights problems there is a need to initiate a study to identify the reasons why, unlike other minorities who integrate successfully in the countries of their choice, the problems of the Roma are recurrent in spite of the fact that they have been living for several generations within the same countries.

46. There is a need to identify the countries where the human rights problems of the Roma are the most glaring, the main areas of the problems, the causes, the measures taken or which can be envisaged to solve them, the comparative experiences of other countries, and the possibilities which are open to achieve the protection of the human rights of the Roma, either through integration or some form of internal autonomy based on consensus. The question of ensuring the participation of the Roma in decision-making and in the public and political life of the countries in which they are residing or of which they are citizens is important. Measures taken in Hungary since 1995, and in other countries, with regard to the empowerment of the Roma through the creation of National Minority Self Governments or similar measures deserve close study. That there are dispersed or concentrated populations of Roma living in different areas of certain States is a reality, but the needs of settled communities of Roma and of those leading a nomadic lifestyle are often different. A well-thought-out plan of autonomy, agreed to by civil society, may, where appropriate, be understood to offer better protection of the rights of both majority and minority populations, especially the Roma. However, any proposal for autonomy must take account of the particular characteristics of the area concerned and of its populations, and its acceptance by minority and majority populations is crucial. One interesting example of autonomy brought to the attention of the author relates to that proposed by communities in Vojvodina.

47. There is need to call for evidence regarding the human rights situation of the Roma outside Europe as well. How they are faring in the Americas (both North and South), in Australia and - why not - in India, where there were apparently certain problems relating to the citizenship of the Banjara Gypsies who had settled in Rajasthan and which were discussed at the Delhi Forum on Banjara Gypsies.

48. There is need to draw up a comprehensive list of recommendations which can help to solve the human rights problems of the Roma.

49. Last but not least, the study will provide an opportunity for all parties involved with the human rights problems of the Roma to focus not only on their problems but also on fruitful measures which can be taken to solve them.

Notes

[1] Mark Braham, The Untouchables: A Survey of the Roma People of Central and Eastern Europe, report to UNHCR, March 1993.

[2] Council of Europe Press, 1994.

[3] Secretariat of the Council of Europe, "The Council of Europe and the Roma/Gypsies", August 1999.

[4] Report on the situation of the Roma and Sinti in the OSCE area, The Hague, March 2000 (hereafter "OSCE report").

[5] "School provision for Gypsy and Traveller children", a report on the implementation of measures envisaged in the resolution of the Council and of the Ministers of Education meeting with the Council, 22 May 1989 (89/C 153/02).

[6] OSCE report, supra note 5, p. 67.

[7] Paper presented at a seminar held in Mauritius, 3-5 November 1999, entitled "Vivre et penser l'inter-culturel aujourd'hui".

[8] Newsweek, 15 May 1999.

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